

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOSE B. HERNANDEZ,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

No. C 08-0710 MMC (PR)

ORDER OF DISMISSAL

On November 30, 2007, petitioner, a prisoner incarcerated at the ICE Federal Detention Center in Eloy, Arizona, and proceeding pro se, filed, in the United States District Court for the Central District of California, a “Motion to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody.” On January 3, 2008, the Central District construed said motion as a habeas petition brought pursuant to 28 U.S.C. § 2254 as petitioner sought to challenge a 2006 conviction obtained in Santa Clara County Superior Court; further, because Santa Clara County is located within the Northern District of California, the action was transferred to this district.

On January 30, 2008, the petition was filed in the Northern District and assigned to the undersigned. That same date, the Clerk of the Court sent petitioner a notice explaining the Northern District’s electronic filing requirements in cases where one of the parties is unrepresented. On March 4, 2008, the notice was returned to the Court as undeliverable because petitioner was not at the address he had provided in his petition.


1 Pursuant to the Civil Local Rules of this district, “a party proceeding *pro se* whose
2 address changes while an action is pending must promptly file with the Court and serve upon
3 all opposing parties a Notice of Change of Address specifying the new address.” See Civ. L.
4 R. 3-11(a). Where mail directed to such party “has been returned to the Court as not
5 deliverable” and “the Court fails to receive within 60 days of this return a written
6 communication from . . . the *pro se* party indicating a current address,” the Court “may
7 dismiss the complaint without prejudice.” See Civ. L.R. 3-11(b).

8 Here, more than sixty days have passed since petitioner’s mail was returned to the
9 Court as undeliverable and petitioner has not notified the Court of his correct current address.
10 Accordingly, the above-titled action is hereby DISMISSED without prejudice.

11 The Clerk shall close the file.

12 IT IS SO ORDERED.

13 DATED: May 15, 2008

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15 MAXINE M. CHESNEY
16 United States District Judge
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